

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED STATES OF AMERICA

v.

DAMIEN DONTÉ PORTER

§
§
§
§
§

Case No. 2:08-CR-5-1- JRG-RSP

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

On March 28, 2018, the undersigned held a final hearing on the Government's petition (#240) to revoke supervised release. The Government was represented by Assistant United States Attorney Lauren Gaston. The Defendant, Damien Donte Porter, was represented by Jason Cassel.

Damien Donte Porter was sentenced on January 26, 2010, before The Honorable U.S. District Judge T. John Ward of the Eastern District of Texas – Marshall Division, after pleading guilty to the offense of Count 1: Conspiracy to Possess with Intent to Distribut Cocaine, a Class A felony, and Count 5: Felon in Possession of a Firearm, a Class C felony. These offenses carried a statutory maximum imprisonment term of life as to Count 1 and 10 years as to Count 5. The guideline imprisonment range, based on a total offense level of 31 and a criminal history category of V, was 168 to 210 months. Damien Donte Porter was subsequently sentenced to 132 months imprisonment and five years supervised release, subject to the standard conditions of release, plus special conditions to include financial disclosure and drug testing/drug treatment. On August 15, 2017, Damien Donte Porter completed his period of imprisonment and began service of the supervision term. The case has been reassigned to U.S. District Judge Rodney Gilstrap.

On March 5, 2018, this petition to revoke was filed. In its petition, the Government alleges the Defendant violated the following conditions:

1) Standard: The Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician. Specifically, the Government alleges as follows: On October 11, 2017, the defendant submitted a urine sample that was positive for cocaine.

The Court scheduled a revocation hearing for March 28, 2018. At the hearing on the Government's petition, and after consenting to the undersigned taking the plea, the Defendant pled true to the allegations as set forth above. Based on the Defendant's plea of true to the allegations, and with no objection by the Defendant or the Government, the undersigned found that the Defendant did violate conditions of his supervised release, as alleged in the U.S. Probation Office's petition.

The undersigned thereafter recommended that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for 12 months plus 1 day, with no supervised release to follow such term of imprisonment. Based on the foregoing, it is

RECOMMENDED that the Defendant's plea of true to the allegations, as set forth in the Government's petition, be **ACCEPTED**. Based upon the Defendant's plea of true to the allegations, it is further recommended that the Court find that the Defendant violated the conditions of his supervised release. It is further

RECOMMENDED that the Defendant's supervised release be **REVOKED**. It is

further **RECOMMENDED** that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of 12 months plus one day, with no supervised release to follow such term of imprisonment.

At the close of the March 28, 2018 revocation hearing, Defendant, defense counsel, and counsel for the Government each signed a standard form waiving their right to object to the proposed findings and recommendations contained in this report, consenting to revocation of supervised release as recommended herein and to the imposition of the above sentence. Defendant also waived his right to be present and speak before the District Judge imposes the recommended sentence. Therefore, the Court may act on the findings and recommendation immediately.

SIGNED this 3rd day of April, 2018.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE